



February 22, 2002

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## ENGROSSED HOUSE BILL No. 1138

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DIGEST OF HB 1138 (Updated February 20, 2002 5:25 PM - DI 87)

**Citations Affected:** IC 6-9; IC 8-1; IC 8-1.5; IC 14-22; IC 36-4; IC 36-10.

**Synopsis:** Local government administration. Changes the membership of the Lake County Convention and Visitors Bureau. Authorizes any municipality within the service area of a public or municipal water utility to adopt an ordinance to provide that the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes must be included in the basic rates of all customers of the utility within the municipality. Authorizes a county to establish a department of storm water management. Allows certain municipalities to collect fees related to the acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems through a periodic billing system or through the semiannual property tax statement. Allows instead of requires the clerk of the circuit court in each county to hunting, trapping, and fishing licenses. Changes the date by which the appropriations and annual tax levy ordinance must be passed from the first Monday in September to September 20 for a third class city and September 30 for a second class city. Provides that a second class city may pay each commissioner on the board of parks an annual salary in an amount fixed by the fiscal body. Updates population parameters to reflect changes in the 2000 decennial census. Makes conforming changes.

**Effective:** Upon passage; July 1, 2002.

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**Ayres, Stevenson, Becker, Aguilera**

(SENATE SPONSOR — SKILLMAN, ANTICH, GARD)

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January 9, 2002, read first time and referred to Committee on Local Government.

January 28, 2002, amended, reported — Do Pass.

February 4, 2002, read second time, amended, ordered engrossed.

February 5, 2002, engrossed. Read third time, passed. Yeas 92, nays 2.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Governmental and Regulatory Affairs.

February 21, 2002, amended, reported favorably — Do Pass.

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EH 1138—LS 6841/DI 94+



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February 22, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED HOUSE BILL No. 1138

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) For purposes of this section,  
3 the size of a political subdivision is based on the population determined  
4 in the last federal decennial census.
- 5 (b) A convention and visitor bureau having ~~thirteen (13)~~ **fifteen (15)**  
6 members is created to promote the development and growth of the  
7 convention, tourism, and visitor industry in the county.
- 8 (c) The executives (as defined by IC 36-1-2-5) of the ~~six (6)~~ **eight**  
9 **(8)** largest municipalities (as defined by IC 36-1-2-11) in the county  
10 shall each appoint one (1) member to the bureau. The legislative body  
11 (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the  
12 county shall each appoint one (1) member to the bureau.
- 13 (d) The county council shall appoint two (2) members to the bureau.  
14 One (1) of the appointees must be a resident of the largest township in  
15 the county, and one (1) of the appointees must be a resident of the  
16 second largest township in the county.
- 17 (e) The county commissioners shall appoint two (2) members to the

EH 1138—LS 6841/DI 94+



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bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.

(i) All terms of office of bureau members begin on July 1. Initial appointments of the county council are for one (1) year terms, initial appointments of the county commissioners are for two (2) year terms, initial appointments of the municipal executives and legislative bodies are for three (3) year terms, with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by his appointing authority.

(k) Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.



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(l) Each bureau member, before entering his duties, shall take an oath of office in the usual form, to be endorsed upon his certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county.

SECTION 2. IC 8-1-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 103. (a) No public utility, or agent or officer thereof, or officer of any municipality constituting a public utility, as defined in this chapter, may charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered, or for any service in connection therewith, than that prescribed in the published schedules or tariffs then in force or established as provided herein, or than it charges, demands, collects, or receives from any other person for a like and contemporaneous service. A person who recklessly violates this subsection commits a Class A misdemeanor.

(b) Notwithstanding subsection (a) of this section, if a city of less than twenty thousand (20,000) in population according to the most recent federal decennial census, constituting a public water utility, and acting as a public utility prior to May 1, 1913, either as such city, or by any commercial association, chamber of commerce, or committee with the consent of such city, entered into any agreement with any person engaged in manufacturing any articles of commerce to furnish free water for a certain limited time as an inducement to such person so engaged in manufacturing to locate the establishment or manufacturing plant of such person within such city, such city may carry out such agreement to furnish free water to such person for the period of time remaining, as stipulated in such contract. This chapter does not prohibit any public utility from supplying or furnishing free service or service at special rates to any municipality, or any institution or agency of such municipality, in cases where the supplying or furnishing of such free

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1 service or service at special rates is stipulated in any provision of the  
 2 franchise under which such public utility was operating before May 16,  
 3 1919, or, in the event that such franchise shall have been surrendered,  
 4 from supplying or furnishing such free service or service at special  
 5 rates until such time as the franchise would have expired had it not  
 6 been surrendered under this chapter; and it shall be the duty of any  
 7 utility operating under any franchise, stipulating for free service or  
 8 service at special rates to municipality, or any institution or agency of  
 9 such municipality, to furnish such free service or service at special  
 10 rates.

11 (c) This subsection applies to a public utility that provides water for  
 12 public fire protection services in both a county containing a  
 13 consolidated city and in portions of counties that are adjacent to the  
 14 county containing a consolidated city. This subsection applies  
 15 throughout the territory served by the public utility. In the case of a  
 16 public utility furnishing water and beginning on January 1, 1994, the  
 17 charges for the production, storage, transmission, sale and delivery, or  
 18 furnishing of water for public fire protection purposes shall be included  
 19 in the basic rates of the customers of the public utility. However, the  
 20 construction cost of any fire hydrant installed after December 31, 1993,  
 21 at the request of a municipality, township, county, or other  
 22 governmental unit shall be paid for by or on behalf of the municipality,  
 23 township, county, or other governmental unit. The change in the  
 24 recovery of current revenue authorized by this section shall be reflected  
 25 in a new schedule of rates to be filed with the commission at least thirty  
 26 (30) days before the time the new schedule of rates is to take effect.  
 27 The new schedule of rates shall:

- 28 (1) eliminate fire protection charges billed directly to
- 29 governmental units, other than charges for the construction cost
- 30 for new hydrants installed after December 31, 1993; and
- 31 (2) increase the rates charged each customer of the utility, based
- 32 on equivalent meter size, by an amount equal to:
- 33 (A) the revenues lost from the elimination of such fire
- 34 protection charges; divided by
- 35 (B) the current number of equivalent five-eighths (5/8) inch
- 36 meters.

37 This change in the recovery of public fire protection costs shall not be  
 38 considered to be a general increase in basic rates and charges of the  
 39 public utility and is not subject to the notice and hearing requirements  
 40 applicable to general rate proceedings. The commission shall approve  
 41 the new schedule of rates that are to be effective January 1, 1994.

42 (d) This subsection applies to a public utility or a municipally



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owned water utility that is not subject to subsection (c). Except as provided in subsection (e), in the case of a public utility or municipally owned water utility furnishing water, if the governing body of ~~the governmental unit with the greatest number of customers any~~ **municipality within the service area** of the utility adopts an ordinance providing that costs shall be recovered under this subsection, the charges for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be included in the basic rates of all customers of the utility **within the municipality**. However, on or after a date specified in the ordinance, the construction cost of any fire hydrant installed at the request of a municipality, township, county, or other governmental unit that adopts an ordinance under this subsection shall be paid for by or on behalf of the municipality, township, county, or other governmental unit. The change in the recovery of current revenue authorized by the ordinance shall be reflected in a new schedule of rates to be filed with the commission at least thirty (30) days before the time the new schedule of rates is to take effect. The new schedule of rates shall:

- (1) eliminate fire protection charges billed directly to governmental units, other than charges for the construction cost for new hydrants installed on and after the date specified in the ordinance; and
- (2) increase the rates charged each customer of the utility, based on equivalent meter size, by an amount equal to:
  - (A) the revenues lost from the elimination of such fire protection charges; divided by
  - (B) the current number of equivalent five-eighths (5/8) inch meters.

This change in the recovery of public fire protection costs shall not be considered to be a general increase in basic rates and charges of the utility and is not subject to the notice and hearing requirements applicable to general rate proceedings. The commission shall approve the new schedule of rates that are to be effective on a date specified in the ordinance.

(e) This subsection applies to a municipally owned water utility in a city having a population of more than ~~forty-three thousand (43,000)~~ **fifty thousand (50,000)** but less than ~~forty-three thousand seven hundred (43,700)~~ **fifty-five thousand (55,000)**. The city may adopt a plan to recover costs as described in subsection (d) without passing an ordinance, if the plan applies only to customers of the utility residing in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand



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(300,000). If the city wishes to adopt such a plan, the city shall file a new schedule of rates with the commission, but is not subject to commission approval of the rates.

(f) In the case of a change in the method of recovering public fire protection costs under an ordinance adopted under subsection (d):

(1) on or after July 1, 1997, a customer of the utility located outside the limits of a municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) must be excluded from the increase in rates attributable to the change and must not be included in the number of equivalent five-eighths (5/8) inch meters for purposes of subsection (d)(2)(B); or

(2) before July 1, 1997, the commission may:

(A) in the context of a general rate proceeding initiated by the utility; or

(B) upon petition of:

(i) the utility;

(ii) the governmental unit that passed the ordinance; or

(iii) an affected customer;

prospectively exclude public fire protection costs from the rates charged to customers located outside the limits of any municipality whose property is not located within one thousand (1,000) feet of a fire hydrant (measured from the hydrant to the nearest point on the property line of the customer) if the commission authorizes a simultaneous increase in the rates of the utility's other customers to the extent necessary to prevent a loss of revenues to the utility.

An increase in the rates of the utility's other customers under subdivision (2) may not be construed to be a general increase in basic rates and charges of the utility and is not subject to the hearing requirements applicable to general rate proceedings. This subsection does not prohibit the commission from adopting different methods of public fire protection cost recovery for unincorporated areas after notice and hearing within the context of a general rate proceeding or other appropriate proceeding.

SECTION 3. IC 8-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to each:

(1) municipality; and

(2) county not having a consolidated city;

that adopts the provisions of this chapter by ordinance.

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SECTION 4. IC 8-1.5-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. The definitions set forth in IC 36-1-2 apply throughout this chapter.**

SECTION 5. IC 8-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "board" means the following:

(1) For a consolidated city, the board of public works established by IC 36-3-5-6.

(2) For all other municipalities **or a county**, the board of directors described in section 4 of this chapter.

SECTION 6. IC 8-1.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities **or a county**, the department of storm water management established under section 4 of this chapter.

SECTION 7. IC 8-1.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) This section applies to a county.**

**(b) If the county executive adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.**

**(c) An ordinance adopted under this section shall provide for the appointment of either:**

**(1) the members of the county executive and the county surveyor (or the surveyor's designee); or**

**(2) the drainage board for the county; as the board of directors of the department.**

**(d) The term of office of a member of the board who is appointed from the membership of the county executive or the drainage board is coextensive with the member's term of office on the county executive or the drainage board. If the county surveyor or the surveyor's designee is appointed under subdivision (1), the term of the surveyor or designee as a member of the board is coextensive with the surveyor's term of office.**

**(e) A member of the board of directors of the department of storm water management appointed under this section is not entitled to a salary or per diem for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses**



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incurred by the member in the performance of official duties.

SECTION 8. IC 8-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The legislative body shall, in the ordinance adopting the provisions of this chapter ~~create~~ **creates** a special taxing district that includes the following:

(1) For a consolidated city, all of the territory of the county containing the consolidated city.

(2) For all other municipalities, all territory within the corporate boundaries of the municipality.

**(3) For a county, all the territory in the county that is not located in a municipality.**

(b) ~~As to each municipality to which this chapter applies, including a consolidated city,~~ All the territory within the district constitutes a special taxing district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit taxes for purposes of storm water collection and disposal. All ~~area~~ **territory** in the district and all ~~area~~ **territory** added to the district is considered to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the ~~area~~ **by territory under** this chapter in order to pay all or part of the costs of such facilities.

SECTION 9. IC 8-1.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The board has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition, the board may:

(1) hold hearings following public notice;

(2) make findings and determinations;

(3) install, maintain, and operate a storm water collection and disposal system;

(4) make all necessary or desirable improvements of the grounds and premises under its control; and

(5) issue and sell bonds of the district in the name of the ~~municipality~~ **unit that is served by the department** for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

(b) The board has exclusive jurisdiction over the collection and disposal of storm water within the **district, except as provided in IC 36-9-27.**

SECTION 10. IC 8-1.5-5-7 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after approval by the ~~legislative~~ **fiscal** body of the ~~municipality~~, **unit that is served by the department**, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system.

**(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner.**

SECTION 11. IC 8-1.5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A ~~municipality~~ **unit** acquiring a storm water system may not assume any liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week immediately preceding the issuance of the bonds.

SECTION 12. IC 8-1.5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **This**

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**section applies to a municipality.**

**(b)** The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against the municipality; and
- (2) paid for in monthly installments as the service accrues out of the:

(A) current revenues of the municipality, collected or in process of collection; and

(B) tax levy of the municipality made by it to raise money to meet its necessary current expenses.

**(c)** The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 13. IC 8-1.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) This section applies to a county.**

**(b)** The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against all the territory in the county, except territory within a municipality; and
- (2) paid for in monthly installments as the service accrues out of the:

(A) current revenues of the county, collected or in process of collection; and

(B) tax levy of the county made by the county to raise money to meet the county's necessary current expenses.

**(c)** The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 14. IC 8-1.5-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the ~~municipality~~, **unit that is served by the department**, special taxing district bonds of the storm water district. The bonds may not exceed the total estimated cost of the work and property to be acquired



as provided for in the resolution, including:

(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and

(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.

(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the ~~municipal~~ fiscal officer, who shall then prepare the bonds. The ~~municipal~~ executive shall execute the bonds, and the fiscal officer shall attest the bonds.

(c) The board may not issue bonds of the storm water district, payable by a special benefit property tax, when the total of the outstanding bonds of the district that are payable from a special benefit property tax, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. For purposes of this section, bonds are not considered to be outstanding bonds if the payment has been provided for by an irrevocable deposit in escrow of government obligations sufficient to pay the bonds when due or called for redemption.

(d) The bonds are not a corporate obligation or indebtedness of the ~~municipality~~ unit but are an indebtedness of the storm water district. The bonds and interest are payable:

(1) out of a special benefit tax levied upon all of the property of the storm water district; or

(2) by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued.

SECTION 15. IC 8-1.5-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) To raise the necessary revenues to pay for the bonds issued and the interest on the bonds, the board:

(1) after approval by the ~~legislative~~ fiscal body of the ~~municipality~~ unit that is served by the department, shall levy a special benefit tax upon all the property of the storm water district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and

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(2) shall certify the tax levied each year to the fiscal ~~officers~~  
~~officer~~ of the ~~municipality and of the county in which the storm~~  
~~water district is located;~~ **unit that is served by the department**  
at the same time ~~the levy of the municipality is and in the same~~  
**manner as other levies of the unit are certified.**

The tax levied and certified shall be estimated and entered upon the tax  
duplicate and shall be collected and enforced in the same manner as  
state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

(1) shall consider the amount of revenues derived by the board  
from the operation of the storm water system under its jurisdiction  
above the amount of revenues required to pay the cost of  
operation and maintenance of the storm water system; and

(2) may, in lieu of making the levy in this section, set aside by  
resolution a specific amount of the surplus revenues to be  
collected before maturity of the principal and interest of the bonds  
payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest  
redemption account.

SECTION 16. IC 8-1.5-5-23 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The board  
may not issue any bonds authorized by this chapter until it has secured  
the approval for the issuance of the bonds from the ~~legislative~~ **fiscal**  
body of the ~~municipality;~~ **unit that is served by the department.**

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter  
which are or may be payable from the special benefit property tax.

SECTION 17. IC 14-22-7-3 IS AMENDED TO READ AS  
FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person may not  
hunt or take a migratory waterfowl within Indiana without having a  
migratory waterfowl stamp issued by the department. The stamp must  
be in the possession of each person hunting or taking a migratory  
waterfowl. However, the stamp need not be affixed to the hunting  
license. The licensee shall validate the stamp with the signature, in ink,  
of the licensee written across the face of the stamp.

(b) The department shall ~~do the following~~

(+) determine the form of the **migratory waterfowl** stamp.

(-) **(c) The department may** furnish the **migratory waterfowl**  
stamps to each clerk of the circuit court and the clerk's designated  
depositories for issuance or sale in the same manner as hunting licenses  
are issued or sold under IC 14-22-11.

SECTION 18. IC 14-22-11-3, AS AMENDED BY P.L.188-2001,  
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2002]: Sec. 3. **(a)** The director ~~and~~ agents appointed by the director ~~and a clerk of the circuit court in each county who is an~~ **are** authorized ~~representative~~ **representatives** of the department shall issue ~~all~~ hunting, trapping, and fishing licenses.

**(b) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.**

**(c)** Each **hunting, trapping, or fishing** license must be in a form prescribed by the director and shall be countersigned by the clerk or agent issuing the license. The director shall furnish the clerks and agents with all necessary blank forms.

SECTION 19. IC 36-4-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. If the city legislative body does not pass the ordinances required by section 7 of this chapter on or before: ~~the first Monday in September of any year;~~

**(1) September 20 for a third class city; and**

**(2) September 30 for a second class city;**

**of each year,** the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 20. IC 36-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may ~~with the approval of the executive and legislative body,~~ pay each commissioner an annual salary ~~not to exceed six hundred dollars (\$600);~~ **in an amount fixed by the fiscal body.** The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning his duties each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed his oath:

(1) within thirty (30) days after the beginning of his term; or

(2) by the date of his appointment if he was appointed after the beginning of the term;

he is considered to have refused to serve and the office becomes vacant.

SECTION 21. **An emergency is declared for this act.**



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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1138, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-9-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) For purposes of this section, the size of a political subdivision is based on the population determined in the last federal decennial census.

(b) A convention and visitor bureau having ~~thirteen (13)~~ **fifteen (15)** members is created to promote the development and growth of the convention, tourism, and visitor industry in the county.

(c) The executives (as defined by IC 36-1-2-5) of the ~~six (6)~~ **eight (8)** largest municipalities (as defined by IC 36-1-2-11) in the county shall each appoint one (1) member to the bureau. The legislative body (as defined in IC 36-1-2-9) of the two (2) largest municipalities in the county shall each appoint one (1) member to the bureau.

(d) The county council shall appoint two (2) members to the bureau. One (1) of the appointees must be a resident of the largest township in the county, and one (1) of the appointees must be a resident of the second largest township in the county.

(e) The county commissioners shall appoint two (2) members to the bureau. Each appointee must be a resident of the fifth, sixth, seventh, eighth, ninth, tenth, or eleventh largest township in the county. These appointees must be residents of different townships.

(f) The lieutenant governor shall appoint one (1) member to the bureau.

(g) One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the highest number of votes in the county in the last preceding election for the office of secretary of state. One (1) of the appointees under subsection (d) and one (1) of the appointees under subsection (e) must be members of the political party that received the second highest number of votes in the county in the election for that office. No appointee under this section may hold an elected or appointed political office while he serves on the bureau.

(h) In making appointments under this section, the appointing authority shall give sole consideration to individuals who shall be knowledgeable and interested in at least one (1) of the following businesses in the county:

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EH 1138—LS 6841/DI 94+



- (1) Hotel.
- (2) Motel.
- (3) Restaurant.
- (4) Travel.
- (5) Transportation.
- (6) Convention.
- (7) Trade show.

(i) All terms of office of bureau members begin on July 1. Initial appointments of the county council are for one (1) year terms, initial appointments of the county commissioners are for two (2) year terms, initial appointments of the municipal executives and legislative bodies are for three (3) year terms, with all subsequent appointments for three (3) year terms. All appointments of the lieutenant governor are for three (3) year terms. A member whose term expires may be reappointed to serve another term. If a vacancy occurs, the appointing authority shall appoint a qualified person to serve for the remainder of the term. If an appointment is not made before July 16 or a vacancy is not filled within thirty (30) days, the member appointed by the lieutenant governor under subsection (f) shall appoint a qualified person.

(j) A member of the bureau may be removed for cause by his appointing authority.

(k) Members of the bureau may not receive a salary. However, bureau members are entitled to reimbursement for necessary expenses incurred in the performance of their respective duties.

(l) Each bureau member, before entering his duties, shall take an oath of office in the usual form, to be endorsed upon his certificate of appointment and promptly filed with the clerk of the circuit court of the county.

(m) The bureau shall meet after July 1 each year for the purpose of organization. The bureau shall elect a chairman from its members. The bureau shall also elect from its members a vice chairman, a secretary, and a treasurer. The members serving in those offices shall perform the duties pertaining to the offices. The first officers chosen shall serve until their successors are elected and qualified. A majority of the bureau constitutes a quorum, and the concurrence of a majority of those present is necessary to authorize any action.

(n) If the county and one (1) or more adjoining counties desire to establish a joint bureau, the counties shall enter into an agreement under IC 36-1-7. In the absence of such an agreement, the bureau may not expend funds to promote activities in any other county."

Page 3, line 18, delete "." and insert "**within the municipality**."

Page 5, between lines 3 and 4, begin a new paragraph and insert:

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"SECTION 3. IC 8-1.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to each:

(1) municipality; **and**

(2) **county not having a consolidated city;**

that adopts the provisions of this chapter by ordinance.

SECTION 4. IC 8-1.5-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. The definitions set forth in IC 36-1-2 apply throughout this chapter.**

SECTION 5. IC 8-1.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "board" means the following:

(1) For a consolidated city, the board of public works established by IC 36-3-5-6.

(2) For all other municipalities **or a county**, the board of directors described in section 4 of this chapter.

SECTION 6. IC 8-1.5-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "department" means the following:

(1) For a consolidated city, the department of public works.

(2) For all other municipalities **or a county**, the department of storm water management established under section 4 of this chapter.

SECTION 7. IC 8-1.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section **applies to all municipalities except does not apply to** a consolidated city.

(b) If the legislative body of a municipality **or the county executive** adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.

(c) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the board consists of three (3) directors. The executive ~~of the municipality~~ shall appoint the directors, not more than two (2) of whom may be of the same political party.

(d) Except as provided in ~~subsection~~ **subsections (f) and (g)**, the ~~legislative body shall prescribe~~, by ordinance **must prescribe** the terms of the directors. ~~However, the legislative body and~~ must prescribe the initial terms of the directors so that ~~they~~ **the terms** will be staggered.

(e) The executive may remove a director at any time when, in the judgment of the executive, it is for the best interest of the department.



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(f) If a second class city has a department of public sanitation under IC 36-9-25, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management. The terms of the members of the board of directors are the same as the terms of the members of the board of sanitary commissioners under IC 36-9-25-4.

(g) **If a county executive adopts an ordinance under this chapter, the ordinance may provide for the appointment of:**

- (1) the members of the county executive and the county surveyor (or the surveyor's designee); or**
- (2) the drainage board for the county;**

**as the board of directors of the department. The term of office of a member of the board who is appointed from the membership of the county executive or the drainage board is coextensive with the member's term of office on the county executive or the drainage board. If the county surveyor or the surveyor's designee is appointed under subdivision (1), the term of the surveyor or designee as a member of the board is coextensive with the surveyor's term of office.**

(h) A member of the board of directors of the department of storm water management appointed under subsection (f) **or (g)** is not entitled to a salary **or per diem** for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties.

SECTION 8. IC 8-1.5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The ~~legislative body shall, in the ordinance adopting the provisions of this chapter create~~ **creates** a special taxing district that includes the following:

- (1) For a consolidated city, all of the territory of the county containing the consolidated city.
- (2) For all other municipalities, all territory within the corporate boundaries of the municipality.
- (3) For a county, all the territory in the county, except territory within a municipality that has established a department.**

(b) ~~As to each municipality to which this chapter applies, including a consolidated city,~~ All the territory within the district constitutes a special taxing district for the purpose of providing for the collection and disposal of storm water of the district in a manner that protects the public health and welfare and for the purpose of levying special benefit



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taxes for purposes of storm water collection and disposal. All ~~area~~ **territory** in the district and all ~~area~~ **territory** added to the district is considered to have received a special benefit from the storm water collection and disposal facilities of the district equal to or greater than the special taxes imposed on the ~~area by~~ **territory under** this chapter in order to pay all or part of the costs of such facilities.

SECTION 9. IC 8-1.5-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The board has the powers and duties prescribed by IC 8-1.5-3-4(a). In addition, the board may:

- (1) hold hearings following public notice;
- (2) make findings and determinations;
- (3) install, maintain, and operate a storm water collection and disposal system;
- (4) make all necessary or desirable improvements of the grounds and premises under its control; and
- (5) issue and sell bonds of the district in the name of the ~~municipality~~ **unit that is served by the department** for the acquisition, construction, alteration, addition, or extension of the storm water collection and disposal system or for the refunding of any bonds issued by the board.

(b) The board has exclusive jurisdiction over the collection and disposal of storm water within the district.

SECTION 10. IC 8-1.5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The acquisition, construction, installation, operation, and maintenance of facilities and land for storm water systems may be financed through:

- (1) proceeds of special taxing district bonds of the storm water district;
- (2) the assumption of liability incurred to construct the storm water system being acquired;
- (3) service rates;
- (4) revenue bonds; or
- (5) any other available funds.

(b) The board, after approval by the ~~legislative~~ **fiscal** body of the ~~municipality~~, **unit that is served by the department**, may assess and collect user fees from all of the property of the storm water district for the operation and maintenance of the storm water system.

SECTION 11. IC 8-1.5-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the board acquires a storm water system and assumes the liability incurred by the seller to construct the storm water system, the principal and interest on

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the liability so assumed shall be paid from the bond and interest redemption account in the same manner as bonds of the district would be paid, and the board shall set aside sufficient revenues to comply with the requirements of the instrument creating the liability.

(b) A ~~municipality unit~~ acquiring a storm water system may not assume any liability for the payment of a secured debt or charge other than the obligation to apply the revenues in the manner prescribed in the ordinance.

(c) The board may issue bonds in exchange for, or satisfaction of, the liability assumed in the acquisition of a storm water system. The bonds so issued may not be issued at less than ninety-seven percent (97%) of the par value thereof in exchange for, or satisfaction of, the liability. Notwithstanding section 13(c) of this chapter, bonds issued in exchange for, or satisfaction of, the liability need not be sold in accordance with IC 5-1-11. However, the interest rate on such bonds may not exceed the average yield on municipal revenue bonds of comparable credit rating and maturity as of the end of the week immediately preceding the issuance of the bonds.

SECTION 12. IC 8-1.5-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) **This section applies to a municipality.**

(b) The reasonable cost and value of any service rendered to the municipality by the storm water system by furnishing storm water collection and disposal shall be:

- (1) charged against the municipality; and
- (2) paid for in monthly installments as the service accrues out of the:
  - (A) current revenues of the municipality, collected or in process of collection; and
  - (B) tax levy of the municipality made by it to raise money to meet its necessary current expenses.

~~(b)~~ (c) The compensation for the service provided to the municipality shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.

SECTION 13. IC 8-1.5-5-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.5. (a) This section applies to a county.**

(b) The reasonable cost and value of any service rendered to the county by the storm water system by furnishing storm water collection and disposal shall be:

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**(1) charged against all the territory in the county, except territory within a municipality; and**

**(2) paid for in monthly installments as the service accrues out of the:**

**(A) current revenues of the county, collected or in process of collection; and**

**(B) tax levy of the county made by the county to raise money to meet the county's necessary current expenses.**

**(c) The compensation for the service provided to the county shall, in the manner prescribed by this chapter, be treated as revenues of the system and paid into the funds created under this chapter.**

SECTION 14. IC 8-1.5-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) To procure money to pay for the required property and the acquisition, erection, and construction of the proposed work, and in anticipation of the collection of the special benefit tax, the board may issue, in the name of the ~~municipality~~, **unit that is served by the department**, special taxing district bonds of the storm water district. The bonds may not exceed the total estimated cost of the work and property to be acquired as provided for in the resolution, including:

**(1) all expenses necessarily incurred for supervision and inspection during the period of construction; and**

**(2) expenses actually incurred preliminary to the acquiring of the necessary property and the construction of the work, including the cost of records, engineering expenses, publication of notices, salaries, and other expenses incurred, before and in connection with the acquiring of the property, the letting of the contract, and the sale of bonds.**

**(b) After adopting a resolution authorizing the bonds, the board shall certify a copy of the resolution to the ~~municipal~~ fiscal officer, who shall then prepare the bonds. The ~~municipal~~ executive shall execute the bonds, and the fiscal officer shall attest the bonds.**

**(c) The board may not issue bonds of the storm water district, payable by a special benefit property tax, when the total of the outstanding bonds of the district that are payable from a special benefit property tax, including the bonds already issued and to be issued, exceeds eight percent (8%) of the total adjusted value of taxable property in the district as determined under IC 36-1-15. For purposes of this section, bonds are not considered to be outstanding bonds if the payment has been provided for by an irrevocable deposit in escrow of government obligations sufficient to pay the bonds when due or called**

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for redemption.

(d) The bonds are not a corporate obligation or indebtedness of the ~~municipality unit~~ but are an indebtedness of the storm water district. The bonds and interest are payable:

- (1) out of a special benefit tax levied upon all of the property of the storm water district; or
- (2) by any other means including revenues, cash on hand, and cash in depreciation or reserve accounts.

(e) The bonds must recite the terms upon their face, together with the purpose for which they are issued.

SECTION 15. IC 8-1.5-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) To raise the necessary revenues to pay for the bonds issued and the interest on the bonds, the board:

- (1) after approval by the ~~legislative~~ **fiscal** body of the ~~municipality~~, **unit that is served by the department**, shall levy a special benefit tax upon all the property of the storm water district in the amount necessary to meet and pay the principal of the bonds as they severally mature, together with all accruing interest; and
- (2) shall certify the tax levied each year to the fiscal ~~officers~~ **officer** of the ~~municipality~~ and of the county in which the storm water district is located; **unit that is served by the department** at the same time ~~the levy of the municipality is~~ **and in the same manner as other levies of the unit are** certified.

The tax levied and certified shall be estimated and entered upon the tax duplicate and shall be collected and enforced in the same manner as state and county taxes are estimated, entered, and enforced.

(b) In fixing the amount of the necessary levy, the board:

- (1) shall consider the amount of revenues derived by the board from the operation of the storm water system under its jurisdiction above the amount of revenues required to pay the cost of operation and maintenance of the storm water system; and
- (2) may, in lieu of making the levy in this section, set aside by resolution a specific amount of the surplus revenues to be collected before maturity of the principal and interest of the bonds payable in the following calendar year.

(c) The special tax shall be deposited in the bond and interest redemption account.

SECTION 16. IC 8-1.5-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The board may not issue any bonds authorized by this chapter until it has secured

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the approval for the issuance of the bonds from the ~~legislative fiscal~~ body of the ~~municipality~~. **unit that is served by the department.**

(b) IC 6-1.1-20 applies to the issuance of bonds under this chapter which are or may be payable from the special benefit property tax.

SECTION 17. IC 14-22-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person may not hunt or take a migratory waterfowl within Indiana without having a migratory waterfowl stamp issued by the department. The stamp must be in the possession of each person hunting or taking a migratory waterfowl. However, the stamp need not be affixed to the hunting license. The licensee shall validate the stamp with the signature, in ink, of the licensee written across the face of the stamp.

(b) The department shall ~~do the following~~

(+) determine the form of the **migratory waterfowl** stamp.

(2) **(c) The department may furnish the migratory waterfowl** stamps to each clerk of the circuit court and the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold under IC 14-22-11.

SECTION 18. IC 14-22-11-3, AS AMENDED BY P.L.188-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a) The director and agents appointed by the director and a clerk of the circuit court in each county who is an are** authorized ~~representative~~ **representatives** of the department shall issue ~~all~~ hunting, trapping, and fishing licenses.

**(b) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.**

**(c) Each hunting, trapping, or fishing** license must be in a form prescribed by the director and shall be countersigned by the clerk or agent issuing the license. The director shall furnish the clerks and agents with all necessary blank forms."

Page 5, after line 11, begin a new paragraph and insert:

"SECTION 20. IC 36-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A department of public parks is established as an executive department of the city.

(b) The department is under the control of a board of park commissioners. The board consists of four (4) commissioners appointed by the city executive. Each commissioner must be a freeholder residing in the city, and no more than two (2) commissioners may have the same political affiliation.

(c) A second class city may ~~with the approval of the executive and legislative body~~, pay each commissioner an annual salary ~~not to exceed six hundred dollars (\$600)~~. **in an amount fixed by the fiscal body.**



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The commissioners shall be paid their actual expenses upon approval by the city executive.

(d) Before beginning his duties each commissioner shall take and subscribe the usual oath of office. The oath shall be indorsed upon the certificate of appointment and filed with the city clerk. If a commissioner has not filed his oath:

- (1) within thirty (30) days after the beginning of his term; or
- (2) by the date of his appointment if he was appointed after the beginning of the term;

he is considered to have refused to serve and the office becomes vacant.

**SECTION 21. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1138 as introduced.)

STEVENSON, Chair

Committee Vote: yeas 9, nays 3.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1138 be amended to read as follows:

Page 9 between lines 32 and 33 begin a new line double block indented and insert"

**"(c) The collection of the fees authorized by this section may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement of the affected property owner:"**

(Reference is to HB1138 as printed January 29, 2002.)

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SENATE MOTION

Mr. President: I move that Senator Gard be added as cosponsor of Engrossed House Bill 1138.

SKILLMAN

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1138, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, delete lines 19 through 42, begin a new paragraph and insert:

" SECTION 7. IC 8-1.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) This section applies to a county.**

**(b) If the county executive adopts the provisions of this chapter by ordinance, a department of storm water management is established and is controlled by a board of directors.**

**(c) An ordinance adopted under this section shall provide for the appointment of either:**

- (1) the members of the county executive and the county surveyor (or the surveyor's designee); or**
- (2) the drainage board for the county;**

**as the board of directors of the department.**

**(d) The term of office of a member of the board who is appointed from the membership of the county executive or the drainage board is coextensive with the member's term of office on the county executive or the drainage board. If the county surveyor or the surveyor's designee is appointed under subdivision (1), the term of the surveyor or designee as a member of the board is coextensive with the surveyor's term of office.**

**(e) A member of the board of directors of the department of storm water management appointed under this section is not entitled to a salary or per diem for serving as a member of the board of directors of the department of storm water management. However, a member shall be reimbursed for necessary expenses incurred by the member in the performance of official duties."**

Page 8, delete lines 1 through 19.

Page 8, line 29, delete "county, except" and insert "**county that is not located in a municipality.**"

Page 8, delete lines 30 through 31.

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Page 9, line 17, delete "district." and insert "**district, except as provided in IC 36-9-27.**".

and when so amended that said bill do pass.

(Reference is to HB 1138 as reprinted February 25, 2002.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 1.

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